

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated April 4, 2005, indicated four rejections under the judicially created doctrine of obviousness-type double patenting: claims 1, 2, and 5 are rejected over claim 1 of U.S. Patent No. 6,636,014 in view of Landon (U.S. Patent No. 6,198,251); claim 3 is rejected over claim 1 of U.S. Patent No. 6,636,014 in view of Landon in further view of Matsuda *et al.* (U.S. Patent No. 5,563,493); claim 4 is rejected over claim 1 of U.S. Patent No. 6,636,014 in view of Landon in further view of Kan *et al.* (U.S. Patent No. 5,168,205); and claim 6 is rejected over claim 1 of U.S. Patent No. 6,636,014 in view of Landon in further view of Kan *et al.* and Rogers (U.S. Patent No. 5,528,148).

The non-final Office Action dated April 4, 2005, also indicated that claims 1, 2, and 5 are rejected under 35 U.S.C. § 103(a) over Lawrence (U.S. Patent No. 5,583,414) in view of Landon; claim 3 is rejected under 35 U.S.C. § 103(a) over Lawrence in view of Landon and further in view of Matsuda *et al.*; claim 4 is rejected under 35 U.S.C. § 103(a) over Lawrence in view of Landon and further in view of Kan *et al.*; and claim 6 is rejected under 35 U.S.C. § 103(a) over Lawrence in view of Landon and further in view of Kan *et al.* and Rogers.

Applicant respectfully traverses each of the rejections as discussed below.

Applicant respectfully traverses each of the Section 103(a) rejections because none of the Section 103(a) rejections presents either correspondence to the claimed invention or evidence of motivation for combining the cited references. As will be evidenced and discussed below, the Office Action bases the rejections on hypothetical embodiments that fail to correspond to the claimed invention and that have been improperly constructed from the prior art.

Applicant also respectfully traverses each of the obviousness-type double patenting rejections. Because much of the rationale from these rejections tracks the rationale used in asserting the Section 103(a) rejections, Applicant's discussion in this regard follows the discussion of the Section 103(a) rejections.

Applicant's traversal of each of the Section 103(a) rejections is largely based on the fact that the asserted combination of teachings is arbitrarily selected and selected in contradiction to the express teachings of the asserted references. For example, these rejections are based on putting the '251 distributor in control of the charging batteries in the Fig. 6 embodiment of the '414 reference. The '414 Fig. 6, however, is an arrangement for charging two batteries very fast by connecting the two batteries in parallel.

First, Applicant submits that the combination of teachings lacks evidence of motivation. By putting the '251 distributor in control of the charging batteries, the Office Action would be contradicting the teaching of the '414 Fig. 6. Because the '414 reference teaches these two batteries (16 and 72 of Fig. 6) in parallel, the '251 distributor would appear not to provide any advantage since its charge provision to either of these two batteries would inherently provide charge to the other of these two batteries. If the Office Action would be considering this hypothetical embodiment with a disconnect between these two batteries, no such rationale has been provided. Moreover, such an implementation would destroy the parallel charging operation and undermine the overall objective of the fast-charging operation of the alleged invention, as represented by the '414 Fig. 6 embodiment. The MPEP states that when a proposed modification renders the teachings being modified unsatisfactory for their intended purpose, there is no suggestion or motivation to make the proposed modification under 35 U.S.C. § 103(a). *See* MPEP § 2143.01. Thus, Applicant submits that maintaining such a rejection based on these teachings is untenable.

Also, putting the '251 distributor in control of the charging batteries of the '414 reference is an arbitrary selection of teachings. The '251 distributor has various modes of operation, as discussed in column 4 of the '251 reference. None of these modes of operation is consistent and/or operable with the parallel charging operation of the '414 Fig. 6 embodiment.

Moreover, Applicant fails to see the logic or evidence that, as asserted in the Office Action, this combination of teachings would increase control of the batteries and allow the batteries to charge faster. Thus, the teachings of the asserted references would not lead the skilled artisan to recognize the asserted combination of teachings, and the

asserted combination of teachings does not result in either an operable device or one being at all consistent with any teachings of the prior art.

Notwithstanding the above deficiencies, the claims have been amended to more specifically recite and provide the environment to which Applicant's invention was intended to be addressing. For example, the preamble of claim 1 has been amended to more expressly set forth that which appears to be already implicitly understood; the equipment batteries are located in and are for operation in a trailered equipment. Applicant notes that this change is not being made for any patentability reasons and certainly not for distinguishing the prior art, such as the '414 embodiment of Fig. 6. Applicant has presented new claims 7-13 to further characterize the invention, in some instance, in a similar manner. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejections cannot be maintained and Applicant accordingly requests that the rejections be withdrawn.

Applicant further submits the following arguments in support of the traversal of the rejections on a claim-by-claim basis, as follows.

Claims 1-2

Neither the '414 embodiment of Fig. 6, nor any teachings in the '251 reference, teaches any embodiment for enabling a skilled artisan to automatically switch a source charge from one equipment battery to another equipment battery, where both equipment batteries are electrically connected for use in one piece of equipment. The '414 embodiment of Fig. 6 teaches connecting the batteries in parallel in such a manner that the issue of automatically switching the source charge is avoided entirely. As for all of the teachings in the '251 reference, the issue of automatically switching the source charge is only for batteries used in separate pieces of equipment. Thus, the proposed combination of references also fails to teach the claimed limitations. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejection cannot be maintained and Applicant requests that the rejection be withdrawn.

Claim 3

The Office Action fails to present a combination of references that corresponds to the claimed invention. The Office Action acknowledges that the combination of the '414 and '251 references fails to teach automatically stopping charging one of the equipment batteries and beginning charging another of the equipment batteries according to a circuit-defined time interval. The Office Action's citation to the '493 reference fails to overcome this deficiency as the cited portion only teaches stopping charging and fails to teach any beginning of charging according to a circuit-defined time interval. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejection cannot be maintained and Applicant accordingly requests that the rejection be withdrawn.

Claim 4

The Office Action fails to present a combination of references that corresponds to the claimed invention. The Office Action acknowledges that the combination of the '414 and '251 references fails to teach automatically stopping charging one of the equipment batteries and beginning charging another of the equipment batteries according to a user-established time interval. In an attempt to overcome this deficiency, the Office Action erroneously asserts that the '205 reference teaches automatically stopping charging one equipment battery according to a user-established time interval. The '205 reference merely teaches charging a single battery. Moreover, the '205 reference does not teach stopping charging, merely changing the charging rate, *e.g.*, from fast mode to automatic mode (column 9, lines 18-21). Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejection cannot be maintained and Applicant accordingly requests that the rejection be withdrawn.

Claim 5

The Office Action fails to present a combination of references that corresponds to the claimed invention. The combined '414 and '251 references fail to teach automatically stopping charging one of the equipment batteries and beginning charging another of the equipment batteries in response to an indication that said one of the

equipment batteries has reached a sufficiently-charged threshold level. The citation to the '251 reference fails to teach any change in charging in response to an indication that a threshold level has been reached. Moreover, the specific example discussed in the '251 reference at column 4, lines 11-13 indicates that there is no data communications link, or feedback, therefore, the charging circuit cannot receive an indication, as claimed, to stop or begin charging; and this aspect is an important part of the alleged invention of the '251 reference as indicated, for example, in its abstract and claims. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejection cannot be maintained and Applicant accordingly requests that the rejection be withdrawn.

Claim 6

The Office Action fails to present a combination of references that corresponds to the claimed invention. The combined '414 and '251 references fail to teach automatically stopping charging one of the equipment batteries and beginning charging another of the equipment batteries at a time that is defined as a function of a user-defined expected travel time. The Office Action's reliance on the '148 reference is misplaced as the '148 reference fails to teach use of travel time to influence the charging of batteries. Applicant fails to recognize where the '148 reference teaches beginning charging an equipment battery as a function of a user-defined expected travel time. Moreover, Applicant notes that case law has held that the use of several references to support a rejection is evidence of nonobviousness. Without a presentation of correspondence to each of the claimed limitations, the Section 103(a) rejection cannot be maintained and Applicant accordingly requests that the rejection be withdrawn.

With respect to the obviousness-type double patenting rejections, Applicant respectfully traverses. As discussed above in connection with claims 1 and 2, the proposed use of the '251 reference with respect to trailered equipment batteries is unmotivated and improper. Thus, the double patenting rejections, each of which relies on the '251 reference, are improper. Should there be a need to facilitate prosecution on certain claims after submission of this Office Action Response and Amendment, Applicant has attached an

unexecuted Terminal Disclaimer with respect to the '014 reference for consideration by the Examiner along with the above discussion and arguments. Accordingly, Applicant requests that each of the double patenting rejections be withdrawn.

As mentioned above, new claims 7-13 have been added to provide further characterizations of the claimed invention. Support for these claims may be found in the Specification in connection with Figs. 3 and 4, for example, at page 11, line 13 – page 12, line 12 and at page 13, lines 13-23. These claims do not introduce new matter and are believed to be patentable over the cited references for the reasons presented above.

In view of the above discussion, Applicant believes that the rejection has been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone (including but not limited discussion of any need for the Terminal Disclaimer), the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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Attachment: Unexecuted Terminal Disclaimer